THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.7766 of 2000

Date: 09.10.2007

Between:

Kompella Gopala Krishna

...PETITIONER(S)

A N D

1. The Managing Director, Samatha Marine Shipping Company, rep. by Mr. Rajesh Behl, C/o Geo-Chem House, 294, Shahid Bagat Singh Road, Fort, Mumbai and another

...RESPONDENT(S)

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

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ORDER:

Petitioner who was employed by respondents 1 and 2 as a clerk filed a petition before the third respondent under Section 20(2) of the Minimum Wages Act, 1948 (for short –'the Act') on 17.11.1998 claiming minimum wages from January 1994 onwards to a tune of Rs.23,845-50ps alleging that he was not paid the minimum wages payable to him. After contest by respondents 1 and 2, third respondent, having held that the delay in presenting the application is not properly explained, by taking a lenient view, directed respondents 1 and 2 to pay the difference in the salary due and payable to the petitioner for a period of six months. Aggrieved by the third respondent not directing respondents 1 and 2 to pay the entire amount claimed, the petitioner before the third respondent filed this petition.

2. The contention of the learned counsel for petitioner is that inasmuch as the petitioner was making periodic requests to respondents 1 and 2 to pay the minimum wages and as respondents 1 and 2 were promising to pay the said amount, the petitioner did not take steps for recovery of the said amount and so the third respondent was in error in not granting the entire amount claimed by the petitioner. The contention of the learned counsel for respondents 1 and 2 is that since the period of limitation prescribed for filing a petition for recovery of minimum wages is only six months and since the delay of several years in filing the petition is not properly explained, third respondent rightly held that the petitioner is not entitled to the relief sought and so

there are no grounds to interfere with the order impugned.

3. As per the proviso to Section 20 (2) of the Act, every application claiming minimum wages shall have to be filed within six months from the date on which the minimum wages or other amount become payable, and an application for that purpose can be admitted even after expiry of the period of six months, if the applicant satisfies the Authority that he had sufficient cause for not making the application within such period. In this case, as rightly observed by the third respondent in the order impugned, no valid reasons are given by the petitioner for his not filing an application under Section 20(2) of the Act till he was removed from service. The evidence on record shows that the petitioner was removed from service because of his negligence resulting in a loss of 6,500 empty P.P. bags.

4. Without going into the merits of contentions raised, third respondent by taking a lenient view, granted six months wages as compensation to the petitioner. In the facts and circumstances of the case, in my considered opinion, respondents 1 and 2 can be directed to pay 10 months wages and equivalent amount of compensation to the petitioner instead of six months only as granted by the third respondent. The difference in the wages paid to the petitioner and the minimum wages payable was Rs.430/- per month.

5. Therefore, this writ petition is disposed of by directing respondents 1 and 2 to pay Rs.430/- X 10 = Rs.4,300/-, being the difference in the wages for 10 months, and an equal amount as compensation, making a total of Rs.8,600/- to the petitioner, after deducting the amount already paid to him. The petition is disposed of accordingly. No costs.

09.10.2007

Cvrk